

ARTICLE 35

Industrial Accident/Illness Leave

- 35.1 A regular/contract member who must be absent from duty because of an accident or illness arising out of the course and scope of employment shall be eligible for industrial accident and illness leave. The injury or illness must be judged by the District's Worker's Compensation carrier as qualified for Worker's Compensation.
- 35.2 ~~Sixty Day Allowance~~
Allowable leave shall be for 60 days during ~~time school is in session~~ **which the Colleges of the District are required to be in session** or ~~days~~ when the member would otherwise have been ~~required to perform~~ **performing** work for the District **in any one fiscal year for the same accident.**
- 35.3 When ~~the~~ **an industrial accident or illness** leave overlaps into the next fiscal year, the member shall be entitled to only the amount of unused leave due him or her for the same illness or injury.
- 35.4 Allowable leave (maximum of 60 days) shall not be accumulated from year to year.
- 35.5 Industrial accident or illness leave shall commence on the first day of absence.
- 35.6 ~~During any month in which the absence occurs, the District will pay the member the percentage of the salary due for the month which, when added to the member's temporary disability indemnity (under Division 4 or Division 4.5, commencing with section 6100 of the Labor Code).~~ **When a member is absent from his/her duties on account of an industrial accident or illness, the member shall be paid the portion of the salary due him/her for any month in which the absence occurs as, when added to his or her temporary disability indemnity (under Division 4, commencing with Section 3201 or Division 4.5, commencing with Section 6100 of the Labor Code,) will-shall** result in a payment **to the member** of not more than ~~his/her~~ **the** full salary.
- ~~35.6.1~~ The phrase "full salary" shall be computed so that it shall not be less than the member's "average weekly earnings" as that phrase is utilized in Section 4453 of the Labor Code. **For purposes of this article, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.**
- ~~35.7~~ **If the member receives the temporary disability indemnity check directly from the worker's compensation carrier, he/she shall not cash the check but contact the Human Resource Specialist assigned worker's compensation**

~~**duties immediately for direction.** The member shall endorse the temporary disability indemnity check to the District in order to receive compensation. The District in turn, will pay the member the appropriate salary.~~

~~35.87~~ ~~The I~~industrial accident or illness leave shall be reduced by one day for each day of authorized absence **regardless of a temporary disability indemnity award.**

~~35.98~~ Upon expiration of the sixty (60) days **termination** of the industrial accident or illness leave, **the member shall be entitled to the benefits provided in Sections 87780 and 87781 of the Education Code and for the purposes of each of these sections, his/her absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave. However, if the member continues to receive temporary disability indemnity, he/she a member** may elect to take as much of **his/her accumulated** ~~their accrued~~ sick leave ~~as is necessary~~ which, when added to **his/her** ~~the~~ temporary disability indemnity ~~compensation~~, **shall** ~~will~~ result in a payment to the employee of not more than his/her full salary ~~the member's base monthly salary~~.

The member may also elect to receive substitute differential pay (the difference between the member's pay and the amount paid the substitute) as provided **in Article 30.11** ~~by the District~~ for extended illness leave, or until income protection insurance, if any, takes effect. ~~For the purposes of these leaves, the absence shall be deemed to have commenced on the date of termination of the industrial accident/illness leave.~~

~~When all available leaves of absence, paid and unpaid, have been exhausted and the member is unable to assume his/her duties, he/shall be placed on a re-employment list for a period 30 calendar months. If the member is certified by the District's physician to be medically able to assume the member's prior duties, the member shall be employed in a vacant position for which the member is qualified. A member who has been placed on a re-employment list who has been medically released to return to work and who fails to accept an assignment for which the member is qualified shall be terminated.~~

~~35.109~~ Any member receiving benefits as a result of this section, during periods of injury or illness, shall remain within the State of California unless the Board of Trustees authorizes travel outside the state.

~~35.101~~ Industrial accident/illness leaves shall not be considered a break in service of the member.

~~Reference~~ Education Code 87787